



Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

**Matter of:** Midwest Research Institute

**File:** B-240268

**Date:** November 5, 1990

Donald Kornreich, Esq., for the protester.  
Michael R. Charness, Esq., Pettit & Martin, for Science Applications International Corporation, an interested party.  
David J. O'Connor, Environmental Protection Agency, for the agency.  
John W. Van Schaik, Esq., and John G. Brosnan, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

### DIGEST

1. Award to offeror having higher-cost, technically superior proposal under request for proposals which gave greater weight to technical merit compared with cost is justified where contracting agency reasonably determined that acceptance of the proposal was worth the higher cost.
2. Point scores are useful only as guides to decision making and are generally not controlling in a selection decision because they often reflect the disparate subjective judgments of evaluators.

### DECISION

Midwest Research Institute (MRI) protests the award of a cost-plus-fixed-fee level-of-effort contract to Science Applications International Corporation (SAIC) under request for proposals (RFP) No. W901200-E1, issued by the Environmental Protection Agency (EPA), for technical support in the identification and regulation of solid and hazardous waste for the EPA's Office of Solid Waste and Emergency Response.

We deny the protest.

The solicitation indicated that, in response to written work assignments issued by the contracting officer, the contractor is to provide direct labor and all resources necessary to perform various assigned tasks. The solicitation included a

049951 / 142612

12-month base period with an estimated level-of-effort of 30,000 labor hours and three 1-year option periods, each with an estimated 30,000 labor hours. The solicitation also gave the government the option to require additional effort up to 110 percent of the specified level-of-effort for the base period or any option period.

Under the RFP, award was required to be made to the offeror whose proposal conformed to the solicitation and was most advantageous to the government, cost and other factors considered. The solicitation also indicated that technical quality was more important than cost and listed the following as technical evaluation criteria, with their relative weights: (1) management plan (200 points); (2) qualification and commitment of personnel (350 points); (3) corporate experience (100 points); (4) technical approach (250 points); and (5) technical approach in accomplishing work sample assignment (100 points).

Under the RFP, cost proposals were to be evaluated in accordance with Federal Acquisition Regulation (FAR) Part 31 and for cost realism, defined as whether the proposed cost indicated an adequate understanding of solicitation requirements. Finally, the solicitation stated that as proposals become more equal in technical merit, evaluated cost would become more important.

EPA received three initial proposals. After separate reviews of the technical and cost portions of the proposals and scoring of the technical proposals, EPA established a competitive range which included MRI, with a technical score of 879, and SAIC with a score of 915.5. Then, after technical discussions and submissions and reevaluations of the revised technical proposals, the evaluation panel raised the technical scores to 897 for MRI and 943.5 for SAIC.<sup>1/</sup> EPA performed an audit of the cost proposals and conducted cost discussions with the two firms resulting in a total estimated cost-plus-fixed-fee of \$12,967,419 for MRI and \$14,067,821 for SAIC. According to EPA, both cost proposals were reasonable and realistic for the proposed efforts.

---

<sup>1/</sup> MRI points out that the narrative portion of the EPA's source selection report states that MRI's score under the technical approach evaluation factor was raised 7 points by the evaluation panel based on the firm's best and final offer but argues that the firm was only given credit for a 4 point increase under that factor, from 233 to 237. Our review of the record indicates that the evaluation panel only increased MRI's score under the technical approach factor by 4 points. The statement in the narrative of the source selection report--that the score was increased 7 points--was in error.

EPA awarded the contract to SAIC based on its superior technical proposal in spite of MRI's \$1,100,402 cost advantage. In making the award decision, the source selection official (SSO) noted that SAIC scored higher than MRI on four out of the five technical criteria, particularly under management plan. According to the SSO, SAIC's proposal exhibited an exceptional degree of management and technical capability which demonstrated that firm's ability to provide quality service.

With regard to cost, the SSO noted that the RFP, by stating that technical quality is more important than cost, indicated the agency's willingness to pay a cost premium for a more technically qualified offeror. Under the circumstances, according to the SSO, MRI's cost advantage did not overcome the technical superiority of SAIC's proposal. In addition, the SSO noted that on a cost reimbursement type contract, where the government is required to pay all reasonable costs, advance estimates of cost may not be valid indicators of actual costs and therefore should not be the controlling factor in the award.

MRI argues that it should have been awarded the contract because its proposal was technically acceptable, in the competitive range and it represented \$1.1 million in cost savings to the government. Also, the protester argues that it is the incumbent on the predecessor contract for related work and transfer of that work to SAIC will result in disruption and additional costs to the government. MRI maintains that its proposal provided a cost benefit, it more than met the minimum RFP requirements and its capabilities "compare favorably" to those of SAIC. Under the circumstances, and since the RFP provided that as proposals become more equal in technical merit, cost would become more important, MRI argues that the award to SAIC was improper.

In a negotiated procurement there is no requirement that award be made on the basis of lowest cost. Agency officials have broad discretion in determining the manner and extent to which they will make use of the technical and cost evaluation results. Cost/technical tradeoffs may be made, and the extent to which one may be sacrificed for the other is governed only by the test of rationality and consistency with the established evaluation factors. Grey Advertising Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325; Environmental Health Research & Testing, Inc., B-237208, Feb. 9, 1990, 90-1 CPD ¶ 169. We will uphold awards to offerors with higher technical scores and higher costs so long as the results are consistent with the evaluation criteria and the contracting agency reasonably determines that the cost premium involved was justified considering the significant technical

superiority of the selected offeror's proposal. PECO Enters., Inc., B-232307, Oct. 27, 1988, 88-2 CPD ¶ 398.

Here, the solicitation indicated that technical quality was more important than cost and, therefore, reasonably placed offerors on notice that the EPA was willing to pay a cost premium for a technically superior offer.<sup>2/</sup> Thus, an award based on SAIC's higher cost, superior technical proposal was consistent with the solicitation so long as the contracting agency reasonably determined that the technical difference was sufficiently significant to outweigh MRI's cost advantage. Environmental Health Research & Testing, Inc., B-237208, supra. This is not at all inconsistent with the statement in the RFP that as the technical proposals are considered "more equal," cost becomes more important. This phrase merely explains what happens in any cost/technical tradeoff; as technical and cost are balanced, the agency must decide how much a particular technical advantage is worth.

MRI argues that the technical scores do not support the agency's determination that SAIC's proposal was superior to its own. For example, the protester notes that SAIC's score was only 46.5 points higher overall (out of 1,000 points), only 14.5 points higher on four out of the five technical evaluation factors (worth 800 points) and, while SAIC scored 32 points higher (out of 200 points), on the management plan factor, that factor was worth only 20 percent of the total technical evaluation points.

Nonetheless, the SSO's judgment as to SAIC's technical superiority was not based solely on the evaluation points but, rather, was also based on the written narrative justification included in the SSO report. In this connection, we have recognized that point scores are useful only as guides to decision making and generally are not controlling because they often reflect the disparate subjective judgments of evaluators. Encon Mgmt. Inc., B-234679, June 23, 1989, 89-1 CPD ¶ 595. Whether a given point spread is significant or not depends on all of the facts and circumstances surrounding a procurement. Burnside-Ott Aviation Training Center, Inc.; Reflectone Training Sys., Inc., B-233113; B-233113.2, Feb. 15, 1989, 89-1 CPD ¶ 158. The SSO determined that MRI's lower cost did not overcome the technical superiority exhibited by SAIC's proposal. In support of that determination, the SSO noted that SAIC outscored MRI under four out of five technical

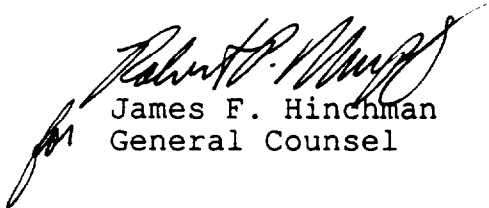
---

<sup>2/</sup> Thus, although the protester argues otherwise, the statement by the SSO that the RFP indicated the agency's "willingness to pay a cost premium for a more technically superior offer," was consistent with the terms of the solicitation.

evaluation criteria and that the most significant difference between MRI and SAIC was under the management plan criterion where, as explained above, SAIC outscored MRI by 32 out of a possible 200 points. Beyond the point scores, the SSO determined that "SAIC's management plan provided superior evidence of their organizational and administrative capabilities in managing contract cost, schedule and quality supervision of manpower required for the proposed contract." The SSO also noted that SAIC's overall technical proposal was "superior" to MRI's and, although MRI proposed a lower cost, that firm was not as technically qualified. The SSO further concluded that MRI's lower cost proposal "cannot overcome the technical superiority exhibited in SAIC's proposal." Based on our review of the record, we conclude that the SSO's determination, that the technical superiority of SAIC's proposal justified the cost premium involved, was reasonable.

MRI also maintains that the SSO improperly questioned its cost proposal by stating, with respect to MRI's lower proposed cost, that "advance estimates of cost may not be valid indicators of final actual costs." In our view, the SSO was simply expressing the legitimate concern that any apparent cost advantage based on proposed costs may be illusory since, under a cost reimbursement type contract, the government is bound to pay the contractor its actual and allowable costs. FAR § 15.605(d); Kinton, Inc., 67 Comp. Gen. 226 (1988), 88-1 CPD ¶ 112. We think that concern was appropriate.

The protest is denied.



James F. Hinchman  
General Counsel